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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,563	07/16/2003	Satoshi Kidooka	P23565	7116
7055	7590	04/08/2005	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			PEFFLEY, MICHAEL F	
			ART UNIT	PAPER NUMBER
			3739	
DATE MAILED: 04/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/619,563

Applicant(s)

KIDOOKA, SATOSHI

Examiner

Michael Peffley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/16/03</u> | 6) <input type="checkbox"/> Other: _____  |

***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouchi (6,767,349) in view of the teaching of Rydell (5,035,696).

Ouchi discloses a bipolar treatment tool for an endoscope substantially as set forth in the instant application claims. It includes a flexible insulating tube (102) made of PTFE (col. 3, line 13), an end effector (110,112) attached to the end of the tube and a pair of conductive wires (122,124) extending through the tube and coupled to the end effector to provide bipolar energy to the individual jaws. The examiner maintains that the use of any well known insulating material, including a silicone resin, for making the flexible tube is deemed an obvious design consideration for one of ordinary skill in the art. Ouchi also disclose the particular jaw and clevis assembly including a pair of pins (134,136) spaced apart from each other, each pin supporting a jaw. Ouchi also disclose a proximal operating portion (not shown) for actuating the pair of conductive wires to operate the end effector (col. 4, lines 37+). The only feature not taught by Ouchi is the provision of two channels in the insulating tube through which the wires are individually

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passed. Rather, Ouchi provides a single channel and passes both wires through the single channel, each wire provided with its own individual insulation sheath.

Rydell also discloses a flexible, bipolar tool for an endoscope. In particular, Rydell teaches that the two conductive wires (24,26) may be individually insulated and passed through a lumen in the flexible insulating tube (see Figure 1). Alternatively, Rydell also teaches that the wires may be uninsulated and the flexible insulating sheath may be provided with two channels for housing the wires individually and obviate the need for an insulation coating on the wires (see Figure 5 and col. 5, lines 10-19).

To have provided the Ouchi flexible tube with two channels for providing the individual conductive wires and obviating the need for insulation coatings on the individual wires would have been an obvious alternative arrangement for one of ordinary skill in the art, particularly since Rydell teach that providing two channels in an insulating tube is a known alternative to insulated wires being passed through a single lumen in an insulating tube.

### ***Conclusion***

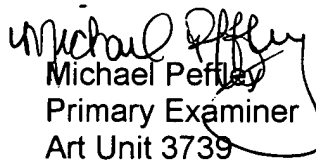
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yahagi et al (2003/0191465) discloses another bipolar tool for an endoscope substantially analogous to the Ouchi device. Parins et al (5,743,906), Slater et al (5,482,054) and Giurtino et al (5,697,949) all disclose various flexible endoscopic tools that include high frequency forceps jaws.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (571) 272-4770. The examiner can normally be reached on Mon-Fri from 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael Peffley  
Primary Examiner  
Art Unit 3739

mp  
April 5, 2005